October 16, 2001

Ms. Lisa Aguilar Assistant City Attorney City of Corpus Christi P.O. Box 9277 Corpus Christi, Texas 78469-9277

OR2001-4679

Dear Ms. Aguilar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 153417.

The City of Corpus Christi (the "city") received a request for, among other information, the city gas division's travel expenses for the last three years. You represent that the information responsive to the request has been provided to the requestor, except for the information at issue submitted for our review. You assert that the information you have marked in the submitted exhibits B through N is excepted from disclosure under sections 552.101, 552.117, or 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You assert the applicability of this exception for the "personal banking and credit card information" you have marked, but you submit no arguments in support of the applicability of section 552.101 to any of the information at issue. We find that most of the information at issue must be withheld under a different exception. The Seventy-seventh Legislature passed Senate Bill 694, which added section 552.136 to chapter 552 of the Government Code. Effective when it was signed by the Governor on May 26, 2001, the provision states in relevant part:

Sec. 552.136. CONFIDENTIALITY OF CREDIT CARD, DEBIT CARD, CHARGE CARD, AND ACCESS DEVICE NUMBERS.

- (a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:
  - (1) obtain money, goods, services, or another thing of value; or
  - (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.
- (b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Act of May 14, 2001, 77th Leg., R.S., ch. 356, § 1, 2001 Tex. Gen. Laws 614. We have marked the information in exhibits C through N that the city must withhold under section 552.136.

Section 552.117 excepts from disclosure, among other information not at issue here, the home address and home telephone number of a current or former official or employee of a governmental body who requested that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. See Open Records Decision No. 530 at 5 (1989). We do not agree that all of the information at issue that you have marked is subject to this exception. Nevertheless, the city must withhold from the requestor the information in exhibits B and N that we have marked as subject to section 552.117, provided the individual elected confidentiality under section 552.024 for this information prior to when the city received the present request. The city may not withhold this information under section 552.117 if the individual did not make a timely election to keep the information confidential.

## Section 552.130 provides in relevant part:

- (a) Information is excepted from the requirement of Section 552.021 if the information relates to:
  - (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

The city must withhold the Texas driver's license information and license plate number we have marked in exhibit B under section 552.130.

In summary, we have marked the information that the city must withhold under section 552.117, 552.130, or 552.136 of the Government Code. The remaining information, including the information you marked but that we did not mark, must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

Michael Garbarino

Assistant Attorney General

Open Records Division

MG/seg

Ref: ID# 153417

Enc. Submitted documents

c: Mr. Roland Garza

Corpus Christi, Texas 78415

(w/o enclosures)

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